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ABSTRACT

These two reports present information and considerations to help California community college administrators in planning ahead. First, Edward Shenk discusses the effects of Proposition 13 (California's tax reform initiative) on community college funding and missions. He provides an overview of the changes brought about within the community colleges by Proposition 13 and discusses strategies developed by administrators to deal with the cutbacks. Shenk then examines the implications of cutbacks on community college mission and argues that though there has been a loss of local orientation and control, other key missions, such as no tuition and equality of access, are likely to be maintained given continued state funding. Finally, he recommends managing the decline in resources through improved accountability; utilization of cost-effective measures; better public relations; and a reexamination of missions. The second report, by Maria Cristina Sheehan, discusses the use of management rights clauses in collective bargaining to specify administrative prerogatives and outlines the advantages of a longer form of clause, which enumerates specific rights, over a short form, which merely reserves these rights. Sheehan then reviews the benefits of using particular phrases to protect management rights and examines the use of such clauses in eight California community college districts. Finally, she makes recommendations on the best use of rights clauses. (HB)

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Management Report

1981-2/3

"Proposition 13: Its Effects on the Missions of the California Community College System Reviewed with Recommendations for the Future"

Edward Shenk
Associate Dean for Student & Career Development
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"Perceptions of the Management Rights Clause by Managers in CCCs"

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Association of California Community College Administrators

INTRODUCTION

The changes impacting our society, and California community colleges in particular, seem to occur at an even accelerated rate these days. Much too often we react to such changes rather than proceeding with some pre-planned action. In this management report, we summarize two studies that can help the management staff to plan ahead.

Edward Shenk describes decisions community college leaders have made and then assesses the impact of such decisions on the mission of our colleges. He then recommends the use of concepts that should be integrated into our management systems. Equally important, he provides food for thought on whether our mission will change because of fragmented political decisions or because of a coherent evaluation of the needs of the people we serve.

Maria Sheehan leads us into the collective bargaining arena to consider the impact of management right clauses on subsequent efforts to arbitrate grievances. She enumerates the choices a manager should consider as well as the potential impact of such choices on resolving grievances. Her recommendations provide a plan of action for managers to consider in designing or redesigning management right contract clauses.

Frank C. Pearce
Superintendent/President
West Valley Community College District

P. S. We are constantly seeking articles and studies that will help management staff to continue their professional growth. Thus, we solicit your contributions to future management reports. Concurrently, if there is a special topic which you feel should be a subject of a future management report, please do not hesitate to let us know.

PROPOSITION 13:

ITS EFFECTS ON THE MISSIONS OF THE CALIFORNIA COMMUNITY COLLEGE SYSTEM REVIEWED WITH RECOMMENDATIONS FOR FUTURE

By

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Napa, California
October 1981

We would like to live as we once lived,
but history will not permit it.

John F. Kennedy

OVERVIEW

The boom era of the last twenty years for community colleges in California was short circuited by the passage of Proposition 13 and the subsequent reduction in fiscal support. During this boom era, community college leaders grappled with the purpose and identity of the community college system in California. Since 1950, leaders within the movement sought to clearly delineate the community college's purpose and missions. With the 1960 California State Master Plan for higher education, the efforts to legitimize and clarify the role of this quickly expanding educational system solidified. In 1974, the community college purposes were enunciated in another Master Plan. In 1978, four years later, four missions were developed by a CCJCA Task Force and approved by the Board of Governors. They were as follows: local control and orientation, equality of access, no tuition and comprehensiveness. These missions outlined the uniqueness of the community college system and provided a foundation for the programs and services that comprise the community college systems.

While the role, purpose and missions of the community college were being developed, an issue that emerged in the late sixties was the possible effects of declining enrollments on higher education. Earl Cheit and Fred Balderston wrote about fiscal reduction and its effects on the institution and were the first to suggest a relationship between fiscal reduction caused by enrollment decline and organizational purpose.

By 1975, the effects of the decline on the educational system were discussed. Kenneth Boulding announced:

> Education is likely to be the first major segment of the economy to suffer a decline and management of this

decline may well set the tone for the management of the general slowdown. (1975).

In the period of 1975-78, the issue of fiscal reduction due to taxpayer action surfaced and its effects noted. The concept of decline was further discussed by Charles Levine in a symposium on Organizational Decline in 1978. Levine reconfirmed Boulding's theory that questioned the ability of public managers to manage a system in decline and suggested that managers tend to respond to resource decline by either resisting decline (ignore, oppose) or smooth decline (accommodate, accept).

While enrollment decline effected other state systems, the California community colleges growth was contained by a resource cap imposed by the Governor of the State in 1976. The cap did not halt the steady growth of the system. With the passage of Proposition 13 the growth of the community college system was threatened. This tax cut initiative provided opportunity to examine the effects of fiscal reduction on the community college system.

A research project was conducted to describe what effect, if any, Proposition 13 had on the community colleges missions. Based on Charles Levine's discussion on the tactics of cutback management, a technique was developed that was used to analyze decisions made by state officials immediately following Proposition 13 (Phase I), six months later (Phase II), and in legislation submitted to fund the community college for the year after Proposition 13 (Phase III). Utilizing the technique developed for the research project, the decisions identified in the 35 selected resource documents, made during these three phases were categorized as smoothing decline or accommodating the effect of decline when the decision demonstrated an effort to change or modify a mission, and resisting of decline when the decision indicated no change or modification to a mission.

The study revealed that all four missions were effected somewhat in Phase I. In Phase II, the focus was on smoothing of decline for local

orientation and control, equality of access and comprehensiveness, and resisting decline for no tuition. The emphasis for smoothing of local orientation and control continued in Phase III. However, a resistance to change was depicted for equality of access, no tuition, as well as comprehensiveness in Phase III, which set the financing for the system for 1979-80 and 1980-81.

While SB 154, reviewed in Phase I, bailed out the system in 1978-79, it did dampen the smoothing effect. While it is well documented that control follows funds, the political strength of local control prevented a full State take over of the system and the formation of a highly centralized bureaucratic structure. The bail-out minimized cuts and allowed various functions to resist change through efforts to grow out of the problem without focusing on long term plans and further reductions as was demonstrated by findings in Phase III. A complete analysis is contained in the dissertation filed through the University Microfilm. (Shenk 1981)

IMPLICATIONS

Declining resources, retrenchment, reduction in force, and similar circumstances are going to confront the leaders of the community college system for at least the next few years. To plan for the future, community college decision-makers will need to determine which, if any, of the central purposes and missions of the community college system are to be abandoned as a result of declining resources. While speculation has occurred over how postsecondary education institutions should respond to resource reduction, little has been done to determine how leaders actually respond to a mandated resource reduction. The passage of Proposition 13 provided the opportunity to study the response of community college system leaders to a dramatic and mandated resource reduction.

Levine's concept that leaders tend to respond to resource reduction by either resisting decline or smoothing decline was used in the study to determine which of the community college system missions leaders seemed to be willing to see modified or changed. While a clear cause and effect relationship cannot be identified, the study does suggest a major reduction

in resources does effect the operation of the community college system, and in turn, causes a modification in the missions of the system.

However, several implications emerge as a result of a change in local control that will require the attention of community college leaders. Increased state funding of the community college will cause an erosion in the mission of local orientation and control. This effect was noted in all three phases and noted in the legislation debated in Phase III. Due to increased fiscal support, the state's role in the operation of the local unit will be evidence in state-oriented capital outlay guidelines, state mandated programs, and various funding restrictions of local programs and services. Unless the local units can preserve a semblence of local autonomy, similar to the Florida system, the control over budget allocations, program selection and personnel practices will be lost to the state.

If community college leaders allow deterioration of the local orientation emphasis in program selection, the comprehensive mission of the community college may be restricted. In Phase I, findings revealed that a decline in fiscal support resulted in a smoothing of decline for the comprehensive mission, particularly in the non-credit and community service offerings.

As state control increases, state leaders will limit the number of non-credit and community service offerings through stricter attendance accounting regulations and a clarification of which credit and non-credit classes will be eligible for state funding. The limitation of non-credit and community service offerings will impact the life-long learning aspects of the community college.

However, the local boards might acquiesce to the state control over local control in order to maintain the open door policy. The desire to maintain the open door was exhibited by resistance to decline for the mission of no tuition in all three phases and resistance to decline for the mission of equality of access in Phase II and III. With state funding, no tuition will be preserved as a key mission of the community college.

The preservation of the specialized support programs (i.e., child care, handicapped services) by state funds suggest that equality of access will also be maintained.

One facet emerged in Phase I which may indicate a future threat to the open door policy. The limitation of the comprehensive nature of the college in Phase I (June 7, 1978 - January 6, 1978) was accompanied by a drop in enrollment in the same period. If, in the 80's, resources continue to decline, state leaders will be required to restrict the comprehensive educational services offered by the institution which could cause a further decline in enrollments. Ultimately, the loss in enrollment will increase the cost of education and possibly require a change in the no tuition mission in favor of fees for services, programs, and classes. These fees, coupled with the limitation of the comprehensive educational services, will further restrict the access mission of the community college.

Thus, if community college system leaders want to maintain the open door in a period of declining resources, they must recognize the relationship between local control and the missions of comprehensiveness, no tuition and equality of access. If leaders are unable to clarify, define and establish local parameters and responsibilities in program selection, fiscal control, and student services, the state will assume these responsibilities and dictate the parameters of the local community college in the future.

RECOMMENDATIONS

Throughout the seventies, a wide variety of writers warned the leaders of higher education of the impending reduction in resources to support the educational institutions. In California, these warnings became a reality with Proposition 13. Based on the findings and evaluation of these findings, certain concepts, advanced during the seventies to attend to resource reduction, will need to be integrated into the management systems of the community colleges. These concepts are: 1) accountability, 2) cost effectiveness, 3) public relations, 4) reprioritization. The management of decline will be a difficult undertaking and, coupled with careful financial planning, managers will need to minimize their margin for error in order to steer

their institutions through this fiscal crisis.

Drawing upon the ideas of Mundt, Cyert, Calais, and Wattenberger the following recommendations for managers of community colleges are:

1. employ techniques that improve the accountability for state allocations to the community college system (Mundt).

2. become cost effective through the efficient utilization of resources through elimination of outdated programs and services and increasing productivity levels within the lower funding limits (Cyert).

3. improve the public relations with the local community in order to close the credibility gap and increase the understanding within the local community of the purpose and missions of the community college (Calais).

4. reprioritize the missions, objectives and activities of the system in order to insure that the institution is able to provide a quality education to the citizens of the state within the resources limitations set by the taxpayers (Wattenberger).

These recommendations imply that the administrators of the institutions recognize that growth will not resolve the problem of declining resources, and that the legislature will not consider future trends or the long term effects of proposed legislation on the missions of the system and attempt to devise reasonable funding formulas. Politics dictates that the legislature continue to make hurried, unplanned decisions based on political reasoning and, as a result, confirm an implied policy which could affect certain institutional functions, and thus the fundamental missions of the system. With this form of decision-making in mind, the leaders of the California Community College System must plan, anticipate and prepare for additional resource reductions. Utilizing the four recommendations, the community college system may be able to withstand this

imposed decline and improve the quality of the educational programs by making decisions that will compensate for the uneven policy decision of the legislature. Thus, the system might be able to maintain the key functions and fundamental missions of the community college system.

Further research should be pursued to identify the direct relationship between the policy resulting from decline and the missions of the system. Additionally, research could pursue the manner in which decisions are made in a climate of decline and study the differences between unplanned budget cuts and planned budget cuts at the systems level.

In concluding, California Community College System leaders will continue to grapple with the issue of decline. The purpose and missions of this system will persist, but it remains to be seen if they will continue to be defined in the same manner, or encompass the broad scope for which they were designed. The conservatism of the seventies and eighties will require additional planned reductions and the concomitant modification of the missions of the system.

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Perceptions of the Mangement Rights Clause by Managers In CCCs

By

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PERCEPTIONS OF THE MANAGEMENT RIGHTS CLAUSE BY MANAGERS IN CALIFORNIA COMMUNITY COLLEGES

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By the summer of 1980, fifty-four districts, or 80% of the 70 community college districts in the State of California, had participated in collective bargaining with faculty as prescribed by Senate Bill 160--the Educational Employees Relations Act--implemented in 1976. The fifty-four districts included bargaining units which were both independent and union affiliated.

Each of the fifty-four districts maintain a collective bargaining agreement or contract which mutually commits both administration and faculty to the terms of the contract. Nothing within the individual contracts can counter any of the many codes and regulations which also govern the California community college system.

Contracts across the state vary in length, detail, and clarity, but most include a management rights clause which specifies the prerogatives of management. No consistency exists regarding the form the clauses take. Most fall into one of two categories, although some combine elements of both. The first form is called "elongated" or "enumerated" because each of management's prerogatives is

specifically defined within the clause. The second most common form the management rights clause takes is the "reserved" format, which is a concise statement reserving all rights to management except those restricted by the terms of the agreement.

The necessity of a management rigths clause and the form it should take remains an issue of debate. Dr. Stuart Marsee, President of El Camino Community College, Torrance, California, feels that the most important clause in the agreement is undoubtedly the management rights clause. He notes that the reserved rights (or "short form") format allows for omissions which might prove costly. He strongly supports the enumerated, elongated, or "long form," which is employed within his district's clause. He suggests that the management rights clause in the "long form" is vital to include within the initial contract.

Researchers Stalcup and Bryant note that community college administrators are losing management rights by default and believe that collective bargaining agreements are more easily interpreted by the employer and employee when management prerogatives are specifically stated. They challenge any assumption that management rights are inherent and therefore unnecessary for contract inclusion. Stalcup and Bryant, although supporting the inclusion of specific rights within the management rights clause, provide four broad phrases which they regard as essential inclusions within either the short or the long clause.

The first two phrases, "the right to manage the company's business" and "the right to direct the work force," are often taken for granted by contract negotiators and in the past have been bargained away by unknowing administrators. These phrases specifically give control to management (though in a general manner), which is vital if an institution is to exist without chaos.

The third phrase, "included but not limited to" is the saving phrase used by management negotiators as a catch-all after specific items have been enumerated. The idea of this phrase is to obtain all unstated specific rights possible, but regardless of the number of rights, allow for additional rights by adding the phrase. This third phrase should be included in any contract to cover whatever unforeseen events may develop in the future.

The fourth phrase begins, "all rights, powers, authority, duties, responsibilities, etc., of an entity are limited only by the specific and expressed terms of this agreement." Again, the intent, much like that of the third phrase, is to minimize the limitations of the power of the district's administration or management. This last phrase places the only limitation of power of administration upon the specific language within the contract.

Lombardi views management rights in community colleges to be in a state of flux. Nearly every contract has a section on management rights, and Lombardi states that sometimes these clauses are written without qualification.

After a careful study of management rights clauses within community college contracts, he concludes that the definition (especially the unqualified definition) of management rights within clauses does not necessarily preserve them. He sees the process of negotiation and the signing of a binding agreement as contrary to the definition of management rights, but believes that management rights clauses may be necessary from a legal standpoint. Lombardi notes, however, that administrators will most likely gain more in preserving their management rights by sharpening their skills at the bargaining table than by including "high sounding" management rights paragraphs in the contract.

Perhaps the most adequate test of the management rights clause is to observe its usage within the districts whose contracts include binding arbitration. Such districts' experience with "rights" grievances filed and those grievances proceeding to arbitration as related to the management rights clause could prove valuable--not only to districts in the same position, but those contemplating the inclusion of binding arbitration within their contracts.

During the fiscal years 1978-1980, eight California community college districts (21 campuses) provided within their certificated contracts both binding arbitration and a clear management rights clause. Administrators from these districts were interviewed to determine what impact if any the management rights clause has upon grievance arbitration.

The management rights clauses of the eight community college districts varied substantially in length and format. Although only one district utilized the reserved rights, or short form management rights clause format, half of the eight districts in the study included all four Stalcup/ Bryant phrases and provided additional specified rights. Half of the eight district administrators in the study relied upon their clauses to discourage grievances from being filed. Although most of the eight districts had experienced grievance filings during the 78-80 fiscal years, only four districts had grievances proceed to arbitration. More than half of the districts had utilized their management rights clauses to assist their districts in resolving a grievance prior to arbitration.

Most administrators interviewed were pleased with their clauses and had learned to live with them. The majority of the administrators recommended that all districts include in their collective bargaining agreements a management rights clause--one which is elongated or enumerated, not simply a "short form." The administrators in the study viewed districts without such clauses as in jeopardy.

A difficulty with the management rights clause experienced by some administrators was the lack of a waiver statement within the management rights clause which prevents the clause itself from being grieved. Another difficulty administrators noted was a need to include within the terms of the agreement a limitation of the scope of issues which

can be grieved to the specific terms of the agreement itself.

Most administrators interviewed perceived the management rights clause as valuable in both discouraging grievance filings and in the prevention of grievances proceeding to arbitration. They also viewed the advantages of the inclusion of the management rights clause to far out-weigh any disadvantages or difficulties attahced to the inclusion of a management rights clause within the agreement.

Interviews further revealed that if the issue of grievance is related to an area within the agreement which is specifically applicable to the grievance and that contract language is clear enough in management's view to stand alone, rarely will the administrator employ the management rights clause.

Additionally, the eight administrators in the study strongly supported the use of outside professionals for the negotiation of agreements and for arbitration proceedings, and most employed them during arbitration and other negotiations.

A number of recommendations emerged as a result of interviews with the eight California community college districts having both collective bargaining agreements which included management rights and binding arbitration clauses:

1. Employ a professional negotiator to assist in the arbitration and negotiation process;

2. Provide a comprehensive management rights clause which enumerates specific rights and includes all four Stalcup/Bryant critical rights clause elements;

3. Draft first-time management rights clauses, or revise existing ones, to include a waiver statement so that the clause cannot itself become a grievable issue;

4. Delete any mention of board regulations, past district practices, or codes or laws outside the agreement itself. Limit the issues of grievance to the items within the collective bargaining agreement;

5. Use the management rights clause when applicable to discourage grievance filings;

6. Use the management rights clause during grievance resolution prior to arbitration;

7. Identify clearly the management rights clause within the agreement under the title "Management Rights" or "District Rights";

8. Strengthen the body of the contract language in order not to defeat the purpose of a strong management rights clause.

A management rights clause is rather useless if in the body of the agreement a management prerogative is given away. If, for example, within the management rights clause, the right to assign faculty to classes is retained, yet in the body of the agreement under the "assignments" section, the agreement states that faculty with tenure may

choose assignments, the management rights clause loses its purpose of clearly establishing the prerogatives of management.

By the end of fiscal year 1980, only eight of California's seventy community college districts had collective bargaining contracts which included clear management rights clauses and binding arbitration. It is assumed that by the end of fiscal year 1985, a far greater number of the California community college districts will have included binding arbitration within their agreements.

Clearly, the management rights clause should be considered for inclusion in any faculty-administration contracts, and it seems, by the interviews conducted in this study, that it should be an integral well designed part of any collective bargaining contract.

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